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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,396	09/23/2003	John C. Goodwin III	11486.00	2509
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PAUL W. MARTIN NCR CORPORATION, LAW DEPT. 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			EXAMINER ARAQUE JR, GERARDO	
			ART UNIT 3629	PAPER NUMBER
			MAIL DATE 12/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/668,396

Applicant(s)

GOODWIN, JOHN C.

Examiner

Gerardo Araque Jr.

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-18 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 18** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. **Claim 18** recites the limitation "**the third identification**" in lines 2 & 3 of claim 18. There is insufficient antecedent basis for this limitation in the claim.

5. **Claim 18** recites the limitation "**the second identification**" in line 2 of claim 18. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claim 1 – 5, 7, 14 - 18, and 21** are rejected under 35 U.S.C. 102(b) as being anticipated by **Bowers et al. (US Patent 6,025,780)**.

8. In regards to **claim 1**, **Bowers** discloses a method of distinguishing items for sale by a store from personal items brought into the store by a shopper comprising the steps of:

stored item identification information associated with radio frequency identification (RFID) labels on items for sale by the store in an inventory file (**Col. 2 Lines 15 – 20; Col. 6 Lines 50 – 53; Col 12 Lines 6 - 8**);

reading RFID labels of items read by an RFID label reader as part of a purchase transaction to obtain identification information (**Col. 1 Lines 22 – 45**);

comparing the read identification information to the stored identification information to determine whether each read RFID label is associated with an item for sale (**Col. 2 Lines 29 – 34, 49 - 53**); and

ignoring the read identification information of any read RFID labels determined not to be associated with an item for sale as being associated with the personal items brought into the store by the shopper (**Col. 9 - 10 Lines 15 – 33**).

9. In regards to **claim 2**, **Bowers** discloses completing the purchase transaction for items having RFID labels associated with items for sale (**inherently included**); and

updating the inventory file to mark any items for which the purchase transaction was completed as sold (**Col. 2 Lines 15 – 26; Col. 9 - 10 Lines 15 – 33**).

10. In regards to **claim 3**, **Bowers** discloses reading an RFID label to obtain item identification information for an item read as the shopper exits the store (**Col. 9 - 10 Lines 15 – 33**);

utilizing the updated inventory file to determine if the RFID label is associated a personal item, an item for sale, or a sold item (**Col. 9 - 10 Lines 15 – 33**).

11. In regards to **claim 4**, **Bowers** discloses displaying an alert on a security read display if it is determined the item is an item for sale (**Col. 10 Lines 5 – 12**).

12. In regards to **claim 5**, **Bowers** discloses utilizing transaction software to create a shopper transaction to create a shopper transaction record identified by a unique transaction number and indicating purchased items of a receipt (**Col. 9 - 10 Lines 54 – 5**).

13. In regards to **claim 7**, **Bowers** discloses purging items marked as sold from the inventory file (**Col. 3 Lines 8 – 11**).

14. In regards to **claim 14**, **Bowers** discloses a system for distinguishing items for sale by a store from personal items brought into the store by a shopper comprising:

a label reader for reading radio frequency identification (RFID) label on items the shopper possesses at the time of a purchase transaction (**Col. 1 Lines 27 – 36**);

memory for storing an inventory file of stored item identification information associated with RFI labels on items for sale by the store (**Col. 2 Lines 15 – 26**); and

a computer for obtaining identification information from the RFID labels on the items the shopper possesses from the label reader, for comparing the read identification information to the stored identification information associated with the items for sale by

the store to determine whether each read RFID label is associated with an item for sale, and for ignoring the read identification information of any read RFID labels determined not to be associated with an item for sale as being associated with the personal items brought into the store by the shopper (**Col. 9 - 10 Lines 15 – 33**).

15. In regards to **claim 15**, **Bowers** discloses, wherein the computer comprises a transaction computer which is operated to complete a purchase transaction for items having RFID labels associated with an item for sale (**Col. 9 - 10 Lines 15 – 33**).

16. In regards to **claim 16**, **Bowers** discloses wherein the computer further operates to update the inventory file to mark any items for which the purchase transaction was completed as sold (**Col. 1 Lines 15 – 26**).

17. In regards to **claim 17**, **Bowers** discloses a security computer which determines that a label read as the shopper exits the store is for an item for sale and not marked sold (**Col. 10 Lines 5 – 12**).

18. In regards to **claim 18**, **Bowers** discloses wherein the security computer controls display of an alert on a security display if it is determined the label read as the shopper exits the store is for an item for sale and not marked sold (**Col. 10 Lines 5 – 12**).

19. In regards to **claim 21**, **Bowers** discloses, wherein the computer also purges the inventory file to eliminate any items marked as sold (**Col. 3 Lines 8 – 11**).

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bowers et al. (US Patent 6,025,780)**.

22. In regards to **claim 6**, **Bowers** fails to disclose utilizing a card reader to accept a payment card. However, **Bowers** does disclose that the method and system is used in a retail environment. It would have been obvious to one having ordinary skill in the art that there are several methods of making a payment at a retail store, which would include the use of a credit card, gift card, or the like. As a result, it would have been obvious for a card reader to be present in order to carry out such a transaction.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of **Bowers** to include a card reader in the event that the customer would pay for the items with a credit card, gift card, or the like.

### ***Response to Arguments***

23. Applicant's arguments with respect to claims 1 - 21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



DENNIS RUHL  
PRIMARY EXAMINER



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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